

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID L. GILLILAND and	)	
SOUTHEASTERN IMAGING GROUP, LLC,	)	
	)	
Plaintiffs	)	
	)	
v.	)	02: 05cv1059
	)	
JONATHAN K. HERGERT,	)	
	)	
Defendant.	)	

**MEMORANDUM ORDER**

Presently before the Court are the following:

- MOTION TO AMEND THE MEMORANDUM OPINION AND ORDER DATED JULY 1, 2008 TO STATE THAT THE CRITERIA FOR INTERLOCUTORY APPEAL ARE SATISFIED AND FOR STAY PENDING APPEAL, with brief in support, filed by Defendant Jonathan K. Hergert (*Document Nos. 163 and 164*), and RESPONSE in opposition filed by Plaintiffs (*Document No. 170*); and
- MOTION FOR CONTINUANCE IN LIGHT OF THE MEMORANDUM OPINION AND ORDER DATED JULY 1, 2008 filed by Defendant Jonathan K. Hergert (*Document No. 165*), and RESPONSE in opposition filed by Plaintiffs (*Document No. 169*).

**AND NOW**, this 11th day of July, 2008, after oral arguments thereon and consideration of the respective level of prejudice to the parties, the Court makes the following rulings:

- (1) Defendant's Motion to Amend the Memorandum Opinion and Order Dated July 1, 2008 to State That the Criteria for Interlocutory Appeal Are Satisfied and for Stay Pending Appeal is **DENIED**.

(2) Defendant's Motion for Continuance is **GRANTED IN PART**. The Court has determined that a continuance of the trial is justified under the circumstances for a period of ninety (90) days in which the parties may engage in limited discovery exclusively related to the § 1-501(a)(ii) stand-alone cause of action. All disputed discovery requests must be submitted to the Court for advanced approval.

(3) Jury selection and trial in this case will commence on **Monday, October 20, 2008 at 9:30 a.m.** No further continuances will be entertained.

(4) Counsel for Defendant is directed to develop a proposed discovery and projected pretrial motions practice plan, including a timetable. Counsel for Defendant shall provide such proposed plan to counsel for Plaintiffs no later than **Noon on Monday, July 14, 2008.**

(5) After counsel for Plaintiffs have had an opportunity to review the plan, counsel for Plaintiffs and Defendant shall meet, with a view towards submission of a Joint Discovery / Pretrial Motions Plan within the time frame of the continuance, with same to be provided to the Court no later than **Noon on Tuesday, July 15, 2008.** Issues on which counsel cannot agree shall be submitted to the Court for decision and inclusion in the final Discovery / Pretrial Motions Plan to be issued by the Court on or before July 16, 2008.

Counsel are cautioned that the Court needs a reasonable amount of time before trial to consider and decide any contested motions.

(6) The Pretrial Conference scheduled on Monday, July 14, 2008 is  
CANCELLED.

BY THE COURT:

s/Terrence F. McVerry  
United States District Court Judge

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